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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ARMANDO MORALES,

Petitioner,

v.

DARREL ADAMS, Warden,

Respondent.

08cv0705 JAH (PCL)

**RESPONDENT'S ANSWER TO
PETITION FOR WRIT OF
HABEAS CORPUS**

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Respondent, Derral Adams, Warden of Corcoran State Prison, by and through his counsel, Edmund G. Brown Jr., Attorney General of the State of California, and Daniel Rogers, Deputy Attorney General, files this Answer to the Petition for Writ of Habeas Corpus pursuant to the order of this Court dated May 14, 2008. Respondent alleges as follows:

I.

Petitioner Armando Morales is in the lawful custody of Respondent after a jury found him guilty in Imperial County Superior Court case number CF12094 of assault by a prisoner by means of force likely to produce great bodily injury (Cal. Penal Code § 4501) and assault on a peace officer by means likely to produce great bodily injury (Cal. Penal Code § 245(c)). The jury also found true

1 allegations that Morales personally inflicted great bodily injury (Cal. Penal Code § 12022.7(a)). The
2 trial court found true allegations that Morales had three prior convictions under the Three Strikes
3 law (Cal. Penal Code §§ 667(b)-(i), 1170.12(a)-(d)). Morales was sentenced to 28 years to life in
4 state prison.

5 II.

6 The instant Petition appears not to have been filed within the applicable limitations period.
7 28 U.S.C. § 2244(d).

8 III.

9 Petitioner has exhausted his state remedies by presenting his claims to the California
10 Supreme Court in a petition for writ of habeas corpus. 28 U.S.C. § 2254(b)(1)(A).

11 IV.

12 The highly deferential standard of federal habeas corpus review established by the
13 Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2254, applies to Morales's
14 claims.

15 V.

16 The state courts made numerous express and implied factual findings. Morales has shown
17 no grounds why the presumption of correctness mandated by 28 U.S.C. § 2254(e)(1) should not
18 apply to these factual findings.

19 VI.

20 Morales is not entitled to an evidentiary hearing. 28 U.S.C. § 2254(e)(2).

21 VII.

22 The relevant facts and procedural history are set forth in the accompanying Memorandum
23 of Points and Authorities. Except as expressly admitted, Respondent denies each and every
24 allegation of the Petition and specifically denies that Morales's confinement is illegal, or that any
25 of his rights has been or is being violated in any way.

26 WHEREFORE, for the reasons set forth more fully in the accompanying Memorandum
27 of Points and Authorities, the Petition should be dismissed with prejudice as untimely and, in the
28 alternative, denied with prejudice, the proceedings dismissed, and any request for a certificate of

1 appealability denied.

2 Dated: September 5, 2008

3 Respectfully submitted,

4 EDMUND G. BROWN JR.
Attorney General of the State of California

5 DANE R. GILLETTE
Chief Assistant Attorney General

6 GARY W. SCHONS
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7 ANTHONY DASILVA
Deputy Attorney General

9

10 s/ Daniel Rogers
11 DANIEL ROGERS
Deputy Attorney General
12 Attorneys for Respondent

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Morales v. Adams**

No.: **08cv0705 JAH (PCL**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 5, 2008, I served the attached **respondent's answer to petition for writ of habeas corpus; memorandum of points and authorities in support of answer to petition for writ of habeas corpus; notice of lodgment** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West "A" Street, Suite 1100, San Diego, California 92101, addressed as follows:

**Armando Morales
#P-80673
Corcoran State Prison
Post Office Box 3481
Corcoran Ca 93212**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 5, 2008, at San Diego, California.

Kimberly Wickenhagen

Declarant


Signature